

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 GUATEMALA 000162

SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [EAIR](#) [ELAB](#) [ASEC](#) [CASC](#) [MOPS](#) [SNAR](#) [GT](#) [FAA](#)

SUBJECT: GUATEMALAN AIR TRAFFIC CONTROLLERS WALK OFF JOB

1. Guatemalan air traffic controllers walked off the job on January 11, shutting down Guatemala's airports for 20 hours. They were protesting the GOG's refusal to renew their employment contracts, which had expired December 31. At least one commercial aircraft landed without tower assistance or runway lights. The government found replacement controllers to reopen Guatemala City's and one other airport the following day, but three more airports remain closed. President Berger publicly fired the controllers and said charges would be filed against those responsible for turning off the runway lights with planes inbound. Charges were filed against five controllers -- allegedly the ringleaders of the walkout -- who are currently free on bail.

Air Traffic Controllers Walk Off the Job

2. Guatemalan air traffic controllers (ATCs) walked off the job January 11 citing the lack of a formal contract for 2005 and the failure to obtain further work-related benefits. The walkout shut down all five government-run airports in the country, including Aurora International Airport in Guatemala City. President Berger announced that all of the "striking" ATCs were fired and that charges would be pressed against them.

3. The following day, the Government of Guatemala (GOG) received temporary support from Mexican and Salvadoran ATCs, as well as staff from TACA Airlines, who operated Aurora airport until January 19. So far, eight Guatemalan ATCs have returned to work, augmented by five additional Guatemalan emergency replacement ATCs, and are operating Aurora International in the capital and Tikal airport in the north of the country. The other three airports, serving San Jose, Retalhuleu, and Puerto Barrios remain closed. The Directorate of Civil Aviation told us that upon arrival in the Aurora tower, the replacements found no aviation charts or data on lower and upper airspace management in Guatemala. Following a frantic request, this embassy's office of the National Geospatial Intelligence Agency provided the data.

4. Five of the ATCs, including the officers of the Air Traffic Controllers' Association, were arrested for "impeding maritime or aviation security" and "endangering public safety" but are currently free on bail of 30,000 Quetzales (USD 3850) each. They, and 47 other ATCs are currently staying together in a Guatemala City hotel owned by Joe Habie, owner of Tikal Jets, a bitter (but much smaller) rival of regional carrier Taca, which loaned replacement controllers. Their leaders tell us that this is for their safety and to maintain solidarity amongst them.

5. The International Federation of Air Traffic Controllers' Associations criticized the GOG's decision to fire, prosecute, and replace the Guatemalan ATCs, specifically noting that the replacement ATCs are not certified in accordance with International Civil Aviation Organization (ICAO) standards. Local members of the Guatemalan Aero Club told us that the Guatemalan Civil Aviation Directorate had canvassed their members looking for anyone willing to work in the tower. They told us that one of the volunteers was 82 years old and that several of them had no formal air traffic control qualifications.

Shutting Down the Airport

6. As the previous ATC employment contracts expired December 31, 2004, the ATCs had been working without any legal employment status. The ATC Association (which is not a union or a legally mandated bargaining agent) held a meeting at Aurora International Airport on the afternoon of January 11 in which the membership proposed a walkout if a new contract, including several benefits that had been under negotiation with Jose Antonio Presa Abascal, Director of Civil Aviation, was not established immediately. ATC representatives told us that one reason for the urgency was a rumor that the Directorate of Civil Aviation needed to achieve a budget cut that might result in terminating the positions of as many as six ATCs. Presa told us that he had written each ATC to say that new contracts would be ready for signature by January 15, and that the ATCs appearance at work in January constituted acceptance of the contract extension while negotiations continued.

7. When no resolution had been achieved with Presa Abascal by

early evening, he and two of the Association's officers went to meet with Minister of Communications, Infrastructure, and Housing Eduardo Castillo, who was attending an event at a local hotel. The Minister reportedly offered a meeting with the associations' officers during the following week. When the officers returned to Aurora International at approximately 8:00 pm to inform the association's membership of what had transpired, the members voted to walk off the job effective immediately. They continued to operate the control tower until the last regularly scheduled passenger flight had arrived and then shut down airport operations.

18. At approximately 9:00 pm a flight from Transportes Aereos Guatemaltecos (TAG) entered Guatemalan airspace from El Salvador bound for Aurora International. ATC representatives maintain that they immediately warned the pilots that Aurora was closed and that they must return to Salvador International. The pilots noted that they needed to contact their company for guidance. (Note: Conversations between the tower and approaching aircraft are recorded on audiotape and have been widely reported. End note.) The ATCs note that they warned them again at 35 miles out and once again at 15 miles out. The pilots continued their approach to Aurora International, however, and landed without the assistance of tower control or runway lights. A letter of complaint by TAG's Chief Administrator claims that they were warned at the 15-mile mark. The TAG aircraft's non-approved landing is the basis for charges against the ATCs of endangering public safety.

The labor negotiations

19. Guatemalan ATCs are government employees hired under a specific type of contract known as a "029" by the budget line item that authorizes such contracts. As the government can terminate 029 contracts at any time, the ATCs had wanted to obtain full civil servant status in their new employment contracts. Other demands included a general salary increase of 5,000 Quetzales (USD 640) per month, reclassification of supervisory positions with an additional salary increase, addition of at least six new positions to allow for a training float and to cover attrition, and the replacement of non-functioning equipment.

110. Stated in the 2004 contract is the requirement that a new contract must be in place at least twenty days before the expiration of the existing contract, which occurred on December 31. The ATCs told us that the absence of a contract by the statutory deadline of December 11 and by the expiration of the 2004 contract on December 31 demonstrated a legal failing on the part of the GOG. The eleven days in January, ATC representatives continued, technically were a period in which the ATCs had no legal right to enter the tower to provide their services. They note that they would have had no legal protections should an accident have occurred while they were working without a contract.

111. The ATC representatives note that they did not ever refer to their actions as a "strike" because their contracts had expired. As they were not formally employed, they had no position from which to strike. (Note: This point is important under Guatemalan law because all strikes must be certified by a labor court judge in order to be legal. While the International Labor Organization's definition of essential services does not include transportation, President Berger has the right under Guatemalan law to terminate a strike that impedes essential services, including transportation. Should the ATCs have continued a work stoppage either without a judge's certification or after a Presidential order to return to work, they would have been in violation of Guatemalan law. End note.) Nonetheless, Director Presa told us that his lawyers assured them that the charges against the ATCs for abandoning their posts and endangering air traffic were solid.

112. In order to return to work, the association now demands that the GOG drop charges against the association's leadership, provide contracts for all of the association's membership, reclassify the jobs as permanent employment, replacement of faulty equipment, and appropriate training measures for new employees. The GOG remains publicly committed to the dismissal of all of the ATCs who walked off the job; however, eight ATCs have returned to work after they signed statements saying that they had walked off the job due to intimidation by association leaders.

Comment

113. It appears that the ATCs are, Director Presa's statements notwithstanding, on safe legal ground, but their actions on January 11 were ill conceived and counterproductive. So far, the ATCs have demonstrated impressive solidarity, but we imagine that the government will lure additional defectors in order to strengthen its bargaining position. Given the

amount of time and training required to qualify and the lack of immediately available replacements, we would not be surprised if the GOG eventually rehired the majority of the ATCs other than the five currently facing charges. The GOG, for its part, had an important role to play in this fiasco. The failure to resolve this issue, even by offering an identical contract to that of 2004, by either the December 11 or December 31 deadlines was inexplicable.

14. There may be more going on in this struggle than just a labor rights action. Accusations and counteraccusations of corruption, criminal activity, anti-competitive practices by the airlines, and the possibility of future concessioning of all airport services are important factors that affect how we should view this struggle in a broader perspective.

HAMILTON